THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17485 of 2002

AND

WRIT PETITION No.18567 of 2003

14.12.2005

Between:

P.Nandraj, S/o.Shiv Raj, Gunfoundry, Hyderabad.

… Petitioner

AND

The State of Andhra Pradesh, Department of Home,
Secretariat, Hyderabad

And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.17485 of 2002

AND

WRIT PETITION No.18567 of 2003

COMMON ORDER:

The petitioner in both the writ petitions is the Vice President of A.P. State Dalith Morcha, a wing of Bharatiya Janata Party. The Assistant Commissioner of Police, Abids Division, the third respondent herein, issued proceedings on 09.09.2002 in purported exercise of powers under Section 26(8) of Hyderabad City Police Act 1348 Fasli (the Act, for brevity) directing the petitioner to report before the Station House Officer, P.S.Abid Road every day between 8.00 a.m and 9.00 a.m. and again between 6.00 p.m. and 8.00 p.m. and report the movement during the intervening periods during 10.9.2002 to 20.9.2002 in connection with Ganesh festival 2002. Assailing the said orders, the petitioner filed W.P.No.17485 of 2002. This Court while admitting the writ petition did not pass any interim order. The Assistant Commissioner of Police, Abid Division passed the similar order on 26.8.2003 in connection with Ganesh festival 2003 again in purported exercise of powers under Section 26(1) of the Act. Assailing the same, the petitioner filed W.P.No.18567 of

2003. In this case also, this Court did not pass any interim order.

In both the writ petitions, the Assistant Commissioner of Police has filed counter affidavits opposing the writ petitions. The averments in the counter affidavits are purported in similar language. It is stated that the Commissioner of Police issued a memo dated 13.8.2003 delegating the powers under Section 26(8) of the Act to the Assistant Commissioner, that the petitioner is involved in various crimes and therefore the impugned orders are passed in public interest as per the circular of the Commissioner of Police.

The learned Counsel for the petitioner strenuously contends that Section 26(1) or 26(8) of the Act do not confer the power on the Assistant Commissioner of Police requiring the person to report to Police Station in connection with a religious function. It is also submitted that the Act does not confer any power on the Commissioner of Police to delegate powers exclusively vested in him and therefore any delegation of powers to the Assistant Commissioner of Police under Section 26(2) of the Act is illegal and unsustainable.

The order impeached in W.P.No.17485 of 2002 was effective till 20.9.2002. Similarly, the order of the Assistant Commissioner of Police challenged in W.P.No.18567 of 2003 was effective till 10.9.2003. In that view of the matter, the question raised has become academic and therefore, this Court is not inclined to decide the question at this stage. The same is left open giving liberty to the petitioner to agitate in an appropriate proceedings.

These writ petitions, with the above observations, are accordingly dismissed as infructuous. No costs.

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(**V.V.S.RAO,J**)

December 14, 2005.

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